

Pension Benefit Guaranty Corporation

§ 4233.5

guarantee under section 4022A of ERISA.

Successor plan means the plan created by a partition order under section 4233(c) of ERISA.

Successor plan benefit means, with respect to a participant or beneficiary whose benefit was wholly or partially transferred from an original plan to a successor plan, the portion of the accrued nonforfeitable monthly benefit which would be guaranteed under section 4022A as of the effective date of the partition, calculated under the terms of the original plan without reflecting any changes relating to a benefit suspension under section 305(e)(9) of ERISA. The payment of a successor plan benefit is subject to the limitations and conditions contained in sections 4022A(a)–(f) of ERISA.

§ 4233.3 Application filing requirements.

(a) *Method of filing.* PBGC applies the rules in part 4000, subpart A of this chapter to determine permissible methods of filing with PBGC under this part, and the rules in part 4000, subpart D of this chapter to determine the computation of time.

(b) *Who may file.* An application for partition under section 4233 of ERISA must be submitted by the plan sponsor. The application must be signed and dated by an authorized trustee who is a current member of the board of trustees, and must include the following statement under penalties of perjury: “Under penalties of perjury, I declare that I have examined this application, including accompanying documents, and, to the best of my knowledge and belief, the application contains all the relevant facts relating to the application, and such facts are true, correct, and complete.” A stamped signature or faxed signature is not permitted.

(c) *Where to file.* See § 4000.4 of this chapter for information on where to file.

§ 4233.4 Information to be filed.

(a) *General.* An application for partition must include the information specified in § 4233.5 (plan information), § 4233.6 (partition information), § 4233.7 (actuarial and financial information), § 4233.8 (participant census data), and

§ 4233.9 (financial assistance information). If any of the information is not included, the application will not be considered complete.

(b) *Additional information.* (1) PBGC may require a plan sponsor to submit additional information necessary to make a determination on an application under this part and any information PBGC may need to calculate or verify the amount of financial assistance necessary for a partition. Any additional information must be submitted by the date specified in PBGC’s request.

(2) PBGC may suspend the running of the 270-day review period (described in § 4233.10) pending the submission of any additional information requested by PBGC, or upon the issuance of a conditional determination under § 4233.12(c).

(c) *Duty to amend and supplement application.* During any time in which an application is pending final action by PBGC, the plan sponsor must promptly notify PBGC in writing of any material fact or representation contained in or relating to the application, or in any supporting documents, that is no longer accurate, or any material fact or representation omitted from the application or supporting documents, that the plan sponsor discovers.

§ 4233.5 Plan information.

An application for partition must include the following information with respect to the plan:

(a) The name of the plan, Employer Identification Number (EIN), and three-digit Plan Number (PN).

(b) The name, address, and telephone number of the plan sponsor and the plan sponsor’s duly authorized representative, if any.

(c) The most recent trust agreement, including all amendments adopted since the last restatement.

(d) The most recent plan document, including all amendments adopted since the last restatement.

(e) The most recent summary plan description (SPD), and all summaries of material modification (SMM) issued since the effective date of the most recent SPD.

(f) The most recent rehabilitation plan (or funding improvement plan, if applicable), including all subsequent